

Donnicelli



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Systems Research Corporation
File: B-237008
Date: January 25, 1990

DIGEST

1. The concept of unbalanced bidding generally is not relevant in a negotiated procurement in which award is based upon evaluation of cost and technical factors with technical factors considered more important than cost. In any event, protest alleging that awardee's offer was unbalanced is denied where review of awardee's proposed labor rates for cost-plus-fixed-fee contract reveals that: (1) overall rates for basic year of contract and all three option years are roughly equal allowing a reasonable escalation factor in each option year; and (2) there is no evidence that proposed rates are nominal for some labor categories and enhanced in others.

2. Cost realism analysis is reasonable where: (1) contracting officer reviewed the labor rates proposed by each offeror and requested the Defense Contract Audit Agency (DCAA) to compare the proposed rates with the average rates paid by each offeror in each labor category on a company-wide basis; (2) contracting officer adjusted proposed rates upward if average rates paid by an offeror for a particular category of labor were higher than proposed rates; and, (3) wherever possible DCAA verified that rates proposed for certain individuals named in proposals are in fact the actual rates that those individuals are paid.

DECISION

Systems Research Corporation (SRC) protests the award of a contract to Resource Consultants, Inc. (RCI), issued by the Department of the Navy under request for proposals (RFP) No. N00140-88-R-0290. SRC alleges that the offer submitted by RCI is unbalanced and will not result in the lowest cost to the government.

We deny the protest.

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The RFP was issued by the Naval Regional Contracting Center, Philadelphia, on May 5, 1988, requesting offers on a cost-plus-fixed-fee basis for automated data services in support of the Navy's MEASURE/METCAL system. The system is designed to provide uniform recall and reports on various pieces of calibration equipment. The contractor will be required to provide services relating to development of specifications, coding, testing, data base loading and unloading, and maintenance. The contract is for a base period of 1 year with options for 3 additional years.

The RFP required offers to be based upon a level of effort estimated at a total of 310,000 hours of direct labor for the base and all three option periods. The RFP stated that award would be made to the offeror whose proposal was most advantageous to the government considering technical factors and cost and specified that technical proposals were considered more important than cost or cost realism. The technical factors were: management plan/technical approach; corporate past experience; and personnel qualifications.

Four proposals were received by the August 11 closing date for receipt of initial proposals; SRC proposed the highest cost plus fixed fee, and RCI proposed the lowest. The technical evaluation team rated one offeror's proposal as acceptable while the other three proposals, including RCI's and SRC's, were all rated as excellent. With the assistance of the Defense Contract Audit Agency (DCAA), the contracting officer conducted a cost realism analysis on all four offers and adjusted and scored the proposed costs of each offer for realism.

Discussions on both technical and cost issues were conducted in June 1989, and best and final offers (BAFOs) were submitted by all four offerors by the June 22 closing date. The technical evaluation team reexamined and rescored the proposals, while the contracting officer performed a cost realism analysis on the revised proposals. Using a scoring system that gave technical factors a weight of 60 percent of the total and cost/cost realism a weight of 40 percent, the BAFOs were rated as follows:

<u>Offeror</u>	<u>Technical Score</u>	<u>Cost Score</u>	<u>Total Score</u>
RCI	48.15	40.00	88.15
SRC	54.63	32.61	87.24

The total scores of the other two offerors were lower than SRC's score.

After reviewing the technical and cost evaluation results and determining that there was no meaningful technical difference between the RCI and SRC technical proposals, the contracting officer concluded that the RCI proposal was most advantageous to the government. Accordingly, the contract was awarded to RCI on September 12.

The protester characterizes RCI's BAFO as being unbalanced in connection with the labor rates RCI proposed for certain labor categories. However, the concept of unbalanced bidding does not apply to a negotiated procurement where cost or price is not the primary basis for source selection. See Merret Square, Inc., B-220526.2, Mar. 17, 1986, 86-1 CPD ¶ 259. Here, the Navy's decision to award to RCI was based upon an evaluation of both technical factors and cost, with technical factors being considered more important than cost.

While SRC argues that cost was the only determinative factor because three of the proposals, including RCI's and SRC's, were all rated as excellent on technical merit, that simply is not the case. As noted above, each of those offerors was given a different point score on the technical factors. Thus, while the adjective "excellent" was used by the Navy to describe these proposals in general terms, the proposals varied in their degrees of technical merit. The Navy used the point scores both to differentiate between the technical merit of the proposals and to perform a reasonable cost/technical tradeoff consistent with the RFP's evaluation scheme. See Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325.

In any event, we have examined the labor rates in RCI's BAFO in view of the protester's allegation. Our examination revealed that the total labor costs proposed for the basic period of the contract were roughly equal to the total labor costs proposed for each of the option periods, allowing for a reasonable escalation of costs in the option years. Moreover, there is nothing in the record that would lead us to conclude that RCI has offered to perform certain work at nominal labor rates and other work at enhanced rates.

To the extent that SRC challenges certain labor rates proposed by RCI, SRC essentially is protesting that the Navy's cost realism analysis was inadequate. In this regard, the protester argues that RCI dramatically lowered its labor rates in certain labor categories between the initial proposal and submission of its BAFO. SRC alleges that RCI underrepresented the actual costs of its labor and that, as this is a cost-type contract, the unrealistically low labor rates do not accurately reflect the actual cost to

the government. Essentially, SRC is protesting that the Navy's cost realism analysis was inadequate.

The government's evaluation of proposed costs and cost realism under a procurement for a cost-type contract is aimed at determining the extent to which the offeror's proposal represents what the contract should cost the government. Since an evaluation of this nature necessarily involves the exercise of informed judgment as to what costs actually will be incurred by accepting a particular proposal, the contracting agency clearly is in the best position to make the cost realism determination and, consequently, our Office will not disturb such a determination absent a showing that it was unreasonable. See Systran Corp., B-228562; B-228562.2, Feb. 29, 1988, 88-1 CPD ¶ 206. We have reviewed the Navy's cost realism assessment in light of SRC's allegations, and we find that the Navy's analysis was reasonable.

It is clear that the protester's arguments are based solely upon speculation regarding the contents of the awardee's initial offer and BAFO. The protester alleges that RCI drastically reduced its labor rates between the time it submitted its initial proposal and its BAFO. We have reviewed the evaluation materials and the awardee's initial and BAFO labor rates and found that this is not the case.

For example, the protester states that RCI proposed an initial rate of \$32 per hour for the senior logistics specialist, but reduced the rate to just \$15 in its BAFO. While we will not reveal RCI's actual proposed rates, neither of the rates suggested by the protester bears any resemblance to the rates proposed by RCI. Moreover, rather than reducing its rate for this category by more than 50 percent as SRC alleges, the record reveals that RCI actually increased its BAFO rate by about 7 percent. A second example is the administrative support typist category where the record shows only a 5-cent reduction in the rate. In the other labor categories identified by SRC, the record shows that RCI made only slight reductions in its BAFO. In addition, the agency points out that RCI actually raised the rates in its BAFO in several other categories.

We have also compared RCI's BAFO rates to those proposed by the protester. This comparison shows that, while RCI's rates are usually lower than the rates proposed by SRC, that is not always the case. We also note that the difference between RCI's rates and SRC's rates is generally not very great.

We also find reasonable the methodology used by the Navy to analyze RCI's rates (and those of the other offerors as well) for realism. The Navy reports that it specifically asked DCAA to perform a rate check on each of the key labor categories in each offer. DCAA audited each offeror to ascertain the average rate paid to each category of employee. Where the average category rate was higher than the actual rate proposed, DCAA recommended that the Navy adjust the offer upward to the average rather than use the below-average rate actually proposed. In RCI's case, DCAA found that the proposed rates were realistic because they accurately reflected the average rate paid by RCI to its employees in each category examined.

The Navy also reports that it took an additional step to ensure that the rates proposed were representative of the rates that would actually be paid. Wherever a specific individual was proposed for a particular position, the contracting officer asked DCAA to verify that the rate that individual was being paid was the same as the rate proposed. To the extent that individuals listed in a proposal were already employed by that firm, DCAA was able to verify the rates. In this manner, DCAA was able to verify the rates of four of the nine senior logistics specialists proposed by RCI. DCAA also noted that, generally, RCI's proposed rates were actually higher than the average rates RCI pays to its senior logistics specialists. Thus, no upward adjustment to RCI's rates was necessary in this connection.

Finally, the Navy reports that, after the cost and technical evaluations were completed, the contracting officer asked the technical team to evaluate the cost impact of the difference in technical merit between RCI's and SRC's proposals. Based upon this additional comparison, the contracting officer concluded that the difference in technical merit was not meaningful.

In our view the Navy's cost realism analysis was not only reasonable, but was thorough. The contracting officer not only examined the cost proposals himself, but he had DCAA examine the key labor categories, and, where possible, DCAA verified that actual labor rates paid to individuals named in a proposal were the rates set forth in the proposal. Where necessary, adjustments were made by the contracting officer. In view of the fact that RCI's combined technical

and cost score was higher than SRC's, we find that the award to RCI was proper. See Stewart-Warner Elecs. Corp., B-235774.3, Dec. 27, 1989, 89-2 CPD ¶ ____.

The protest is denied.

for *Andrea T. Pozany*
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General Counsel